## IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS DALLAS DIVISION

COLE PECK,	§	
	§	
Plaintiff/Counter-Defendant,	§	
	§	
v.	§	
	§	
ASSET MANAGEMENT ASSOCIATES,	§	
LLC,	§	
	§	
Defendant/Counter-Plaintiff,	§	Case No. 3:17-cv-02923-N
	§	
V.	§	
	§	
JA LYNN KUO, KAREN KUO, SUBHO	§	
MULLICK, JAMES FLETCHER III,	§	
SALIMA THOBANI, GARY MARK	§	
WILSON,	§	
	§	
Counter-Defendants.	§	

## **COUNTER-DEFENDANTS' PARTIAL MOTION TO DISMISS**

Pursuant to Federal Rule of Civil Procedure 12(b)(6), Counter-Defendants Cole Peck, Ja Lynn Kuo, Karen Kuo, Subho Mullick, James Fletcher III, Salima Thobani, and Gary Mark Wilson (collectively, "Guarantors") file this Partial Motion to Dismiss ("Motion") and respectfully show the Court as follows:

1. In Defendant/Counter-Plaintiff Asset Management Associates, LLC's ("Counter-Plaintiff") Answer and Counterclaims ("Counterclaims"), it alleges, among other things, a cause of action for breach of guaranty as a result of an alleged default on an underlying lease. Counter-Plaintiff alleges that Guarantors are liable for the alleged default on the lease arising on March 1, 2017, despite a final determination by a bankruptcy court that no default existed on March 6, 2017.

2. As detailed in Guarantors' Brief in Support of this Motion filed contemporaneously with this Court, the Counterclaims fail to state a plausible claim for relief against Guarantors on its cause of action for alleged past-due rent arising before March 6, 2017, and the Court should dismiss the same.

Accordingly, Guarantors respectfully request that the Court dismiss Landlord's claim for past-due rent accruing before March 6, 2017, and for all other relief to which they are justly entitled.

Respectfully submitted,

/s/ Joshua L. Hedrick

Joshua L. Hedrick

Texas State Bar No. 24061123

Laura M. Fontaine

Texas State Bar No. 24065239

Mark A. Fritsche

Texas State Bar No. 24100095

HEDRICK KRING, PLLC

1700 Pacific Avenue, Suite 4650

Dallas, Texas 75201

(Tel.) (214) 880-9600

(Fax) (214) 481-1844

Josh@HedrickKring.com

Laura@HedrickKring.com

Mark@HedrickKring.com

ATTORNEYS FOR PLAINTIFF AND COUNTER-DEFENDANTS

## **CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the foregoing document has been furnished to all counsel of record in accordance with the Federal Rules of Civil Procedure and the Local Civil Rules of the U.S. District Court for the Northern District of Texas this 12th day of April, 2018.

/s/ Joshua L. Hedrick

Joshua L. Hedrick